

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Au *et al.*
Serial No. 10/050,091
Filed: 11/16/2001

Examiner: Maung, Nay Aung #D
Art Unit: 2681

For: **SCHEDULER WITH FAIRNESS CONTROL AND QUALITY OF SERVICE SUPPORT**

Attention: Special Program Law Office
Commissioner for Patents
Washington, D.C. 20231

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Sir:

**PETITION TO CORRECT FILING DATE AND
REQUEST TO CORRECT FILING RECEIPT**

This is a petition to correct the filing date for the above-referenced patent application from January 17, 2002 to November 16, 2001. On the afternoon of Friday, November 16, 2001, Jennifer Garrison attempted to file the above-referenced application via the United States Postal Service's "Express Mail to Addressee" service at the post office in Cary, North Carolina. The express mail package was refused by the post office due to events stemming from the September 11th terrorist attacks and anthrax concerns. On the following Monday, November 19, 2001, Jennifer Garrison filed the application via first class mail on the condition that it was refused, accompanied by a petition, a copy of which is enclosed, to the Commissioner to afford the application a filing date of November 16, 2001. The application included all paperwork including the original certificate of Express Mail. With apparent disregard for the petition, the application was given a filing date of January 17, 2002, although the application is entitled to a filing date of November 16, 2001. Accordingly, the Commissioner is hereby requested to correct the filing date.

A review of the refusal to grant a filing date as of the date of deposit of the application should be done by way of petition, accompanied by the petition fee under 37 C.F.R. 1.17(i). An enclosed credit card payment form in the amount of \$130.00 is provided to cover the petition fee. Since the error was caused by the USPTO, applicant requests a refund of the petition fee upon granting the petition to correct the filing date of the application. MPEP § 506.02.

Given the interruption in U.S. Postal Service on November 16, 2001, applicant is entitled to the filing date of November 16, 2001 because the application was promptly filed in an alternative manner and accompanied by a statement indicating that such correspondence would have been filed on November 16, 2001 if it were not for the designated interruption in the U.S. Postal service (see 37 C.F.R. 1.6(e) and MPEP § 502).

Prompt attention to this matter is respectfully requested.

In addition, the first- and third-named inventors are incorrect on the filing receipt. A correction is hereby requested as follows:

First-named inventor: Kelvin Kar-Kin Au

Third-name inventor: Yoon Chae Cheong

A copy of the filing receipt is enclosed with changes marked in red.

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CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST-CLASS MAIL, IN AN ENVELOPE ADDRESSED TO: **SPECIAL PROGRAM LAW OFFICE, COMMISSIONER FOR PATENTS, WASHINGTON, D.C. 20231, ON**
3/25/02 (Date of Deposit)

Jennifer Rush
Name of Depositor

Jennifer Rush
Signature

March 25, 2002
Date of Signature

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:



Benjamin S. Withrow
Registration No. 40,876
P.O. Box 1287
Cary, NC 27512
Telephone: (919) 654-4520

Date: March 25, 2002 Docket: 7000-107



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: *Au et al.*

Serial No. TBA

Filed: 11/16/2001

For: **SCHEDULER WITH FAIRNESS CONTROL AND QUALITY OF SERVICE
SUPPORT**

Commissioner for Patents
Box FILING DATE
Washington, D.C. 20231

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Sir:

REFUSAL OF EXPRESS MAIL BY UNITED STATES POSTAL SERVICE

On November 16, 2001, I attempted to send the above-referenced application via the United States Postal Service's "Express Mail to Addressee" service from the post office in Cary, North Carolina. The Express Mail package was refused by the postal service. Accordingly, the Director is hereby requested to afford the enclosed application a filing date of November 16, 2001.

Respectfully submitted,

WITHROW & TERRANOVA, P.L.L.C.

By:

Jennifer A. Garrison
Paralegal

Withrow & Terranova, P.L.L.C.
P.O. Box 1287
Cary, NC 27512
Telephone: (919) 654-4520

Date: November 19, 2001
Attorney Docket: 7000-107



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COPY OF PAPERS
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Commissioner for Patents
Box PATENT APPLICATION
Washington, D.C. 20231

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Sir:

CERTIFICATE OF MAILING/EXPRESS MAIL

"Express Mail" Mailing Label Number EL873243416US

Date of Deposit November 16, 2001

I hereby certify that this paper, which is a Utility Patent Application entitled
SCHEDULER WITH FAIRNESS CONTROL AND QUALITY OF SERVICE SUPPORT
(our file 7000-107), and the attached fee are being deposited with the United States Postal
Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date
indicated above and is addressed to the Commissioner for Patents, Box Patent Application,
Washington, D.C. 20231.

Mailed By:


Jennifer Rush

EL873243416US

Please type a plus sign (+) inside box

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PTO/SB/05 (11-00)

Approved for use through 10/31/2002. CMB 0651-0032
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UTILITY PATENT APPLICATION TRANSMITTAL

Attorney Docket No. 7C00-107

First Inventor Au et al.

Title SCHEDULER WITH FAIRNESS CONTROL AND QUALITY OF
SERVICE SUPPORT

Express Mail Label No. EL873243416US

(Only for new nonprovisional applications under 37 C.F.R. 1.53(b))

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification (Total Pages 16)
(preferred arrangement set forth below)
 - Descriptive title of the invention
 - Cross References to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the invention
 - Brief Summary of the invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C.113) (Total Sheets 3 sets of 3)
5. Oath or Declaration (Total Pages 2)
 - a. ☒ Newly executed (original or copy)
 - b. ☐ Copy from a prior application (37 CFR 1.63 (d))
(for a continuation/divisional with Box 18 completed)
 - i. ☐ **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s)
named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

ADDRESS TO:

Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

7. ☐ CD-ROM or CD-R in duplicate, large table or
Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
 - a. ☐ Computer Readable Form (CRF)
 - b. Specification Sequence Listing on:
 - i. ☐ CD-ROM or CD-R (2 copies); or
 - ii. ☐ paper
 - c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATIONS PARTS

9. ☒ Assignment Papers (cover sheet & document(s))
10. ☒ 37 C.F.R. §3.73(b) Statement ☒ Power of
(when there is an assignee) Attorney
11. ☐ English Translation Document (if applicable)
12. ☒ Information Disclosure ☒ Copies of IDS
Statement (IDS)/PTO-1449 Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Request and Certification under 35 U.S.C. 122
(b)(2)(B)(i). Applicant must attach form PTO/SB/35
or its equivalent.
17. ☐ Other: _____

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP)

of prior application No: _____ / _____

Prior application information: Examiner _____

Group / Art Unit: _____

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

17. CORRESPONDENCE ADDRESS

☒ Customer Number or Bar Code Label

(Insert Customer Number or Bar code label here)

or ☐ Correspondence address below

Name

27820

PATENT, TRADEMARK OFFICE

Address

City

State

Zip Code

Country

Telephone

Fax

Name (Print/Type)

Benjamin S. Withrow

Registration No. (Attorney/Agent)

40,876

Signature

Date

November 16, 2001

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

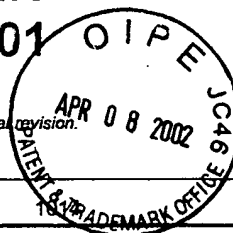
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FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.



Complete if Known

Application Number
Filing Date November 16, 2001
First Named Inventor Au et al.
Examiner Name
Group / Art Unit
Attorney Docket No. 7000-107

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TOTAL AMOUNT OF PAYMENT (\$)

METHOD OF PAYMENT (check one)

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number

50-1732

Deposit Account Name

Withrow & Terranova, P.L.L.C.

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17
☐ Applicant claims small entity status. See 37 CFR 1.27

2. ☒ Payment Enclosed:

☐ Check ☒ Credit card ☐ Money Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

| Large Fee Code | Entity Fee (\$) | Small Fee Code | Entity Fee (\$) | Fee Description | Fee Paid |
|----------------|-----------------|----------------|-----------------|------------------------|----------|
| 101 | 740 | 201 | 370 | Utility filing fee | 740 |
| 106 | 330 | 206 | 165 | Design filing fee | |
| 107 | 510 | 207 | 255 | Plant filing fee | |
| 108 | 740 | 208 | 370 | Reissue filing fee | |
| 114 | 160 | 214 | 80 | Provisional filing fee | |

SUBTOTAL (1)

(\$ 740)

2. EXTRA CLAIM FEES

| | | | | | | | | |
|--------------------|----|-------|---|----|---|----|---|-----|
| Total Claims | 33 | -20** | = | 13 | X | 18 | = | 234 |
| Independent Claims | 3 | -3** | = | 0 | X | 84 | = | 0 |
| Multiple Dependent | | | | | X | | = | 0 |

| Large Fee Code | Entity Fee (\$) | Small Fee Code | Entity Fee (\$) | Fee Description |
|----------------|-----------------|----------------|-----------------|--|
| 103 | 18 | 203 | 9 | Claims in excess of 20 |
| 102 | 84 | 202 | 42 | Independent claims in excess of 3 |
| 104 | 280 | 204 | 140 | Multiple dependent claim, if not paid |
| 109 | 84 | 209 | 42 | ** Reissue independent claims over original patent |
| 110 | 18 | 210 | 9 | ** Reissue claims in excess of 20 and over original patent |

SUBTOTAL (2)

(\$ 234)

**or number previously paid, if greater. For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

| Large Fee Code | Entity Fee (\$) | Small Fee Code | Entity Fee (\$) | Fee Description | Fee Paid |
|----------------|-----------------|----------------|-----------------|--|----------|
| 105 | 130 | 205 | 65 | Surcharge - late filing fee or oath | |
| 127 | 50 | 227 | 25 | Surcharge - late provisional filing fee or cover sheet. | |
| 139 | 130 | 139 | 130 | Non-English specification | |
| 147 | 2,520 | 147 | 2,520 | For filing a request for reexamination | |
| 112 | 920* | 112 | 920* | Requesting publication of SIR prior to Examiner action | |
| 113 | 1,840* | 113 | 1,840* | Requesting publication of SIR after Examiner action | |
| 115 | 110 | 215 | 55 | Extension for reply within first month | |
| 116 | 400 | 216 | 200 | Extension for reply within second month | |
| 117 | 920 | 217 | 460 | Extension for reply within third month | |
| 118 | 1,440 | 218 | 720 | Extension for reply within fourth month | |
| 128 | 1,960 | 228 | 980 | Extension for reply within fifth month | |
| 119 | 310 | 219 | 155 | Notice of Appeal | |
| 120 | 310 | 220 | 155 | Filing a brief in support of an appeal | |
| 121 | 270 | 221 | 135 | Request for oral hearing | |
| 138 | 1,510 | 138 | 1,510 | Petition to institute a public use proceeding | |
| 140 | 110 | 240 | 55 | Petition to revive - unavoidable | |
| 141 | 1,240 | 241 | 620 | Petition to revive - unintentional | |
| 142 | 1,240 | 242 | 620 | Utility issue fee (or reissue) | |
| 143 | 440 | 243 | 220 | Design issue fee | |
| 144 | 600 | 244 | 300 | Plant issue fee | |
| 122 | 130 | 122 | 130 | Petitions to the Commissioner | |
| 123 | 50 | 123 | 50 | Petitions related to provisional applications | |
| 126 | 180 | 126 | 180 | Submission of Information Disclosure Stmt | |
| 581 | 40 | 581 | 40 | Recording each patent assignment per property (times number of properties) | 40 |
| 146 | 710 | 246 | 355 | Filing a submission after final rejection (37 CFR § 1.129(a)) | |
| 149 | 710 | 249 | 355 | For each additional invention to be examined (37 CFR § 1.129(b)) | |
| 179 | 710 | 279 | 355 | Request for Continued Examination (RCE) | |
| 169 | 900 | 169 | 900 | Request for expedited examination of a design application | |

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 40)

SUBMITTED BY

Complete (if applicable)

Name (Print/Type) Benjamin S. Withrow Registration No. Attorney/Agent 40,876 Telephone 919-654-4520
Signature [Signature] Date November 16, 2001

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

| APPLICATION NUMBER | FILING DATE | GRP ART UNIT | FIL FEE REC'D | ATTY DOCKET NO | DRAWINGS | TOT CLAIMS | IND CLAIMS |
|--------------------|-------------|--------------|---------------|----------------|----------|------------|------------|
| 10/050,091 | 01/17/2002 | 2681 | 974 | 7000-107 | 3 | 33 | 3 |

CONFIRMATION NO. 9121

27820
WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512



FILING RECEIPT



OC000000007556764

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Date Mailed: 02/28/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Au
Kelvin Kar-Kin, Ottawa, CANADA;
Gamini Senarath, Nepean, CANADA;
Yoon Chae *Cheong*, Kanata, CANADA;
Wei Huang, Nepean, CANADA;

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Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted 02/28/2002

Projected Publication Date: 07/17/2003

Non-Publication Request: No

Early Publication Request: No

Title

Scheduler with fairness control and quality of service support

Preliminary Class

455

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

FILE COPY



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Bib Data Sheet

CONFIRMATION NO. 9121

| | | | | | |
|--|---|-----------------------------------|---|--|--------------------------------|
| SERIAL NUMBER 10/050,091 | FILING DATE 11/16/2001 RULE <u> A </u> | CLASS 455 | GROUP ART UNIT 2681 | ATTORNEY DOCKET NO. 7000-107 | |
| APPLICANTS Kelvin Kar-Kin Au, Ottawa, CANADA; Gamini Senarath, Nepean, CANADA; Yoon Chae Cheong, Kanata, CANADA; Wei Huang, Nepean, CANADA; | | | | | |
| ** CONTINUING DATA ***** ** FOREIGN APPLICATIONS ***** | | | | | |
| IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** 02/28/2002 | | | | | |
| Foreign Priority claimed <input type="checkbox"/> yes <input type="checkbox"/> no 35 USC 119 (a-d) conditions <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> Met after met Allowance Verified and Acknowledged <u> </u> Examiner's Signature <u> </u> Initials | | STATE OR COUNTRY CANADA | SHEETS DRAWING 3 | TOTAL CLAIMS 33 | INDEPENDENT CLAIMS 3 |
| ADDRESS 27820 | | | | | |
| TITLE Scheduler with fairness control and quality of service support | | | | | |
| FILING FEE RECEIVED 974 | FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following: | | <input type="checkbox"/> All Fees <input type="checkbox"/> 1.16 Fees (Filing) <input type="checkbox"/> 1.17 Fees (Processing Ext. of time) <input type="checkbox"/> 1.18 Fees (Issue) <input type="checkbox"/> Other _____ <input type="checkbox"/> Credit | | |